

**ORIGINAL**Decision No. 42839

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 IRVEN L. WOFFORD for a Certificate  
 of Public Convenience and Necessity  
 to Operate a Public Utility Water  
 System.

Application No. 29653

Louis R. Deadrich, for applicant.OPINION AND ORDER ON REHEARING

On December 14, 1948, by Decision No. 42306, this Commission granted Irven L. Wofford a certificate of public convenience and necessity to operate a water system in Wofford Heights subdivision near Kernville, and prescribed schedules of flat and metered rates for delivery of water. The schedules of rates prescribed were in general below and somewhat different from those requested, whereupon applicant filed a petition for rehearing on January 10, 1949, claiming confiscation. By order, dated February 1, 1949, the petition of applicant was granted and further hearing set. The rehearing was held before Examiner Edwards in Kernville on March 10, 1949.

The Commission's schedules of flat rates were 50 cents per month below the \$3 proposed by applicant for residences and for business places with only toilet facilities. Larger business places were required to be billed on a measured basis rather than on a flat \$5 basis proposed by applicant. The meter rates also, in general, were lower and somewhat different from those proposed by the applicant. In revising applicant's proposed rates, the Commission used its informed judgment as to a proper rate for the fully developed condition for the new subdivision and did not expect applicant to earn

a fair return on the investment in water facilities during the developmental stage of the tract.

Applicant's main contention at the rehearing was that the rate specified at the present time, with only ten customers, does not pay the out-of-pocket cost of electricity for pumping and there is nothing left over to pay other operation expenses, maintenance expenses, or return on investment. Furthermore, development may be slower than originally estimated, so applicant may sustain a loss for several years. The difference between the two rates would materially lessen the burden which the real estate operations would have to carry until the tract is developed.

A hydraulic engineer of the Commission's staff testified that this system is substantially oversize to serve the present few customers and still will be oversize at the end of 1949, even if the expected 50 additional houses are built. He estimated the quantity of capital used and useful to serve 60 customers at \$13,613, which is roughly one-half of applicant's present investment. He also estimated the corresponding operation and maintenance expenses as follows:

Annual Expense Estimate - 60-Customer Basis

Power	\$ 150	per year
Operation and Maintenance	360	" "
Billing and Collecting	150	" "
Taxes	200	" "
Depreciation - 5% S.F.	260	" "
Return at 5%	680	" "
	<u>1,800</u>	" "

Per customer, this is equivalent to \$30 per year or \$2.50 per month.

Applicant's counsel protested this method of computing cost and justifying rates, and stated that the applicant was required by the Real Estate Commissioner to provide service to all of the lots, and that it was not economical to install such a small system as

would serve only 60 customers. Mr. Wofford's actual pumping bill, taxes, and depreciation are greater than the amounts estimated on the basis of presently used and useful plant. His power bill is at least \$300 per year, and operation and maintenance cost on the present system he estimates at \$1,200 per year. He also requested a higher depreciation allowance based on only a ten-year life and return at the rate of 7% on the entire investment; however, he did not expect to start earning a return on this basis until 178 users are being served.

Mr. Wofford testified that it is not reasonable to expect the present few users to carry the whole burden and he realized that he may have to stand a loss during the first few years. He figures that even with the \$3 rate he will sustain a loss until there is 50% development of the tract. In view of the fact that there were no protests at the original hearing, he thought the proposed rate was fair and reasonable. Moreover, the tract is not developing as fast as he originally thought and application of the Commission's lower rate delays the time when he can recover expenses or earn a return.

Applicant's real estate broker, Edward C. Uffert, was questioned as to the effect the higher rate would have on the sale of lots. He testified that the lots largely are being purchased by outside interests, rather than Kernville residents, and that there was no complaint on the \$3 flat rate. The \$6 annual saving on the Commission's rates would not help in sale of lots in his opinion. Already 115 lots have been sold in the tract and none has been turned back. Mr. Uffert was questioned further regarding his experience as a real estate dealer, and he testified that he has marketed five different subdivisions. He was asked as to the comparative sale price of lots where utilities were installed by the subdivider.

His reply was that the practice was to include all cost of utilities in the first cost of lots in the subdivision.

One customer, Dr. C. V. Barrows, protested the Commission's requirement that all large commercial places be metered. He thought that the extra cost of meters would be reflected in higher rates. He was asked as to his opinion of the reasonableness of the proposed \$3 rate. He stated that \$3 is a reasonable rate during four months in the summertime, but during the other eight months of the year is somewhat high.

From a review of the record, it is apparent that under neither the applicant's proposed rates nor the Commission's prescribed rates will the applicant receive sufficient revenue to cover costs of operating the present system until more development takes place. If anything, the applicant should prefer low rates during the developmental stage to encourage sales of lots and to encourage usage. If a large usage per customer is developed, the Commission's prescribed meter rates will increase revenues above applicant's requested flat rates as soon as meters are installed.

It is not the Commission's practice to set rates at such a high level that a return is earned during the early developmental stages of a real estate subdivision. Where the water utility is separate from the real estate business, it is customary for the subdivider to advance a deposit to cover the entire cost of the water system extension. The advance is later paid back from the utility revenues as the business develops. The water utility is not allowed to earn a return on the portion of these advances remaining unpaid. On this basis, until the utility has refunded all of the advance, there is no need for earning a full return. We believe that it is not

fair to the water users to be required to pay a cost during development that is normally shouldered by the subdivider.

The Commission realizes that conditions have changed and development may be considerably slower than was anticipated in December, 1948, but believes that this is one of the ordinary risks taken by any real estate dealer in marketing a subdivision. Until the tract is nearly completed and some actual operating cost figures developed, the selection of a proper schedule of rates is a matter of informed judgment.

Under all of the circumstances involved, there appears to be no compelling reason for making any changes in the rates heretofore prescribed. When as few as 60 customers are being served, the Commission believes that the water system will reasonably be paying its way on the prescribed rates. Just as soon as any substantial development takes place, the Commission will entertain a supplemental application to set proper rates if on actual experience these rates prove to be unsatisfactory.

The Commission, likewise, is of the opinion that the proper way to handle the complaint registered by Dr. Barrows is to require meters where usage may be large. Some commercial establishments may inherently use several times as much water as others. To place all of this business on flat rates would be discriminatory against the small user. While the cost of the meter does increase capital costs per customer somewhat, there are offsetting economies; it reduces wastage and thus saves on pumping costs. Likewise, residential users should be metered where large use or wastage of water is evident. In fact, the Commission prefers that all services be metered, and the utility

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is urged to install meters everywhere at the first opportunity. If all had meters, the Commission believes the annual revenues would exceed the revenues from billing on applicant's requested flat rates.

The petition of Irven L. Wofford for a rehearing in this proceeding having been granted, hearing held, evidence introduced and the matter submitted for decision, and the Commission being fully advised in the premises;

IT IS HEREBY ORDERED that Decision No. 42306, dated December 14, 1948, be and it is reaffirmed.

Dated at San Francisco, California, this 3<sup>rd</sup>  
day of May, 1949.

R. E. [Signature]  
Julius F. [Signature]  
Harold P. [Signature]  
[Signature]  
Commissioners